

108TH CONGRESS
1ST SESSION

H. R. 1071

To establish the Southwest Regional Border Authority.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2003

Mr. REYES (for himself, Mr. RODRIGUEZ, Mr. FILNER, Mr. PASTOR, Mr. GRIJALVA, Mr. UDALL of New Mexico, Mr. ORTIZ, and Mr. HINOJOSA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Southwest Regional Border Authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Southwest Regional Border Authority Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

TITLE I—SOUTHWEST REGIONAL BORDER AUTHORITY

- Sec. 101. Membership and voting.
- Sec. 102. Duties and powers.
- Sec. 103. Authority personnel matters.

TITLE II—GRANTS AND DEVELOPMENT PLANNING

- Sec. 201. Infrastructure development and improvement.
- Sec. 202. Technology development.
- Sec. 203. Community development and entrepreneurship.
- Sec. 204. Education and workforce development.
- Sec. 205. Funding.
- Sec. 206. Supplements to Federal grant programs.
- Sec. 207. Demonstration projects.
- Sec. 208. Local development districts; certification and administrative expenses.
- Sec. 209. Distressed counties and areas and economically strong counties.
- Sec. 210. Development planning process.

TITLE III—ADMINISTRATION

- Sec. 301. Program development criteria.
- Sec. 302. Approval of development plans and projects.
- Sec. 303. Consent of States.
- Sec. 304. Records.
- Sec. 305. Annual report.
- Sec. 306. Authorization of appropriations.
- Sec. 307. Termination of authority.

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—Congress finds that—

3 (1) a rapid increase in population in the South-
 4 west border region is placing a significant strain on
 5 the infrastructure of the region, including transpor-
 6 tation, water and wastewater, public health, and
 7 telecommunications;

8 (2) 20 percent of the residents of the region
 9 have incomes below the poverty level;

10 (3) unemployment rates in counties in the re-
 11 gion are up to 5 times the national unemployment
 12 rate;

1 (4) per capita personal income in the region is
2 significantly below the national average and much of
3 the income in the region is distributed through wel-
4 fare programs, retirement programs, and unemploy-
5 ment payments;

6 (5) a lack of adequate access to capital in the
7 region—

8 (A) has created economic disparities be-
9 tween communities in the region and commu-
10 nities outside the region; and

11 (B) has made it difficult for businesses to
12 start up in the region;

13 (6) it has been difficult for displaced workers in
14 the region to find employment because many work-
15 ers—

16 (A) have limited English language pro-
17 ficiency; and

18 (B) lack adequate English language and
19 job training;

20 (7) many residents of the region live in commu-
21 nities referred to as “colonias” that lack basic neces-
22 sities, including running water, sewers, storm drain-
23 age, and electricity;

24 (8) many of the problems that exist in the re-
25 gion could be solved or ameliorated by technology

1 that would contribute to economic development in
2 the region;

3 (9) while numerous Federal, State, and local
4 programs target financial resources to the region,
5 those programs are often uncoordinated, duplicative,
6 and, in some cases, unavailable to eligible border
7 communities because those communities cannot af-
8 ford the required funding match;

9 (10) Congress has established several regional
10 economic development commissions, including the
11 Appalachian Regional Commission, the Delta Re-
12 gional Authority, and the Denali Commission, to im-
13 prove the economies of those areas of the United
14 States that experience the greatest economic dis-
15 tress; and

16 (11) many of the counties in the region are
17 among the most economically distressed in the
18 United States and would benefit from a regional eco-
19 nomic development commission.

20 (b) PURPOSES.—The purposes of this Act are—

21 (1) to establish a regional economic develop-
22 ment authority for the Southwest Border region to
23 address critical issues relating to the economic
24 health and well-being of the residents of the region;

1 (2) to provide funding to communities in the re-
2 gion to stimulate and foster infrastructure develop-
3 ment, technology development, community develop-
4 ment and entrepreneurship, and education and
5 workforce development in the region;

6 (3) to increase the total amount of Federal
7 funding available for border economic development
8 projects by coordinating with and reducing duplica-
9 tion of other Federal, State, and local programs; and

10 (4) to empower the people of the region through
11 the use of local development districts and State and
12 regional development plans that reflect State and
13 local priorities.

14 **SEC. 3. DEFINITIONS.**

15 In this Act, the following definitions apply:

16 (1) **ATTAINMENT COUNTY.**—The term “attain-
17 ment county” means an economically strong county
18 that is not a distressed county or a competitive
19 county.

20 (2) **AUTHORITY.**—The term “Authority” means
21 the Southwest Regional Border Authority estab-
22 lished by section 101(a)(1).

23 (3) **BINATIONAL REGION.**—The term “bina-
24 tional region” means the area in the United States
25 and Mexico that is within 150 miles of the inter-

1 national border between the United States and Mex-
2 ico.

3 (4) BUSINESS INCUBATOR SERVICE.—The term
4 “business incubator service” means—

5 (A) a legal service, including aid in pre-
6 paring a corporate charter, partnership agree-
7 ment, or contract;

8 (B) a service in support of the protection
9 of intellectual property through a patent, a
10 trademark, or any other means;

11 (C) a service in support of the acquisition
12 or use of advanced technology, including the
13 use of Internet services and Web-based services;
14 and

15 (D) consultation on strategic planning,
16 marketing, or advertising.

17 (5) COMPETITIVE COUNTY.—The term “com-
18 petitive county” means an economically strong coun-
19 ty that meets at least 1, but not all, of the criteria
20 for a distressed county specified in paragraph (5).

21 (6) DISTRESSED COUNTY.—The term “dis-
22 tressed county” means a county in the region that—

23 (A)(i) has a poverty rate that is at least
24 150 percent of the poverty rate of the United
25 States;

1 (ii) has a per capita market income that is
2 not more than 67 percent of the per capita
3 market income of the United States; and

4 (iii) has a 3-year unemployment rate that
5 is at least 150 percent of the unemployment
6 rate of the United States; or

7 (B)(i) has a poverty rate that is at least
8 200 percent of the poverty rate of the United
9 States; and

10 (ii)(I) has a per capita market income that
11 is not more than 67 percent of the per capita
12 market income of the United States; or

13 (II) has a 3-year unemployment rate that
14 is at least 150 percent of the unemployment
15 rate of the United States.

16 (7) ECONOMICALLY STRONG COUNTY.—The
17 term “economically strong county” means a county
18 in the region that is not a distressed county.

19 (8) FEDERAL GRANT PROGRAM.—The term
20 “Federal grant program” means a Federal grant
21 program to provide assistance in—

22 (A) acquiring or developing land;

23 (B) constructing or equipping a highway,
24 road, bridge, or facility; or

1 (C) carrying out other economic develop-
2 ment activities.

3 (9) INDIAN TRIBE.—The term “Indian tribe”
4 has the meaning given the term in section 4 of the
5 Indian Self-Determination and Education Assistance
6 Act (25 U.S.C. 450b).

7 (10) ISOLATED AREA OF DISTRESS.—The term
8 “isolated area of distress” means an area located in
9 an economically strong county that has a high rate
10 of poverty, unemployment, or outmigration, as deter-
11 mined by the Authority.

12 (11) LOCAL DEVELOPMENT DISTRICT.—The
13 term “local development district” means an entity
14 that—

15 (A)(i) is an economic development district
16 that is—

17 (I) in existence on the date of enact-
18 ment of this Act; and

19 (II) recognized by the Economic De-
20 velopment Administration; and

21 (III) located in the region; or

22 (ii) if an entity described in clause (i) does
23 not exist—

24 (I) is organized and operated in a
25 manner that ensures broad-based commu-

1 nity participation and an effective oppor-
2 tunity for local officials, community lead-
3 ers, and the public to contribute to the de-
4 velopment and implementation of programs
5 in the region;

6 (II) is governed by a policy board with
7 at least a simple majority of members con-
8 sisting of designees or employees of a gen-
9 eral purpose unit of local government that
10 have been appointed to represent the unit
11 of local government or elected officials; and

12 (III) is certified by the Governor or
13 appropriate State officer as having a char-
14 ter or authority that includes the economic
15 development of counties, portions of coun-
16 ties, or other political subdivisions within
17 the region; and

18 (B) has not, as certified by the Federal co-
19 chairperson—

20 (i) inappropriately used Federal grant
21 funds from any Federal source; or

22 (ii) appointed an officer who, during
23 the period in which another entity inappro-
24 priately used Federal grant funds from any

1 Federal source, was an officer of the other
2 entity.

3 (12) REGION.—The term “region” means—

4 (A) the counties of Cochise, Gila, Graham,
5 Greenlee, La Paz, Maricopa, Pima, Pinal,
6 Santa Cruz, and Yuma in the State of Arizona;

7 (B) the counties of Imperial, Los Angeles,
8 Orange, Riverside, San Bernardino, San Diego,
9 and Ventura in the State of California;

10 (C) the counties of Catron, Chaves, Doña
11 Ana, Eddy, Grant, Hidalgo, Lincoln, Luna,
12 Otero, Sierra, and Socorro in the State of New
13 Mexico; and

14 (D) the counties of Atascosa, Bandera,
15 Bee, Bexar, Brewster, Brooks, Cameron, Coke,
16 Concho, Crane, Crockett, Culberson, Dimmit,
17 Duval, Ector, Edwards, El Paso, Frio, Gil-
18 lespie, Glasscock, Hidalgo, Hudspeth, Irion,
19 Jeff Davis, Jim Hogg, Jim Wells, Karnes, Ken-
20 dall, Kenedy, Kerr, Kimble, Kinney, Kleberg,
21 La Salle, Live Oak, Loving, Mason, Maverick,
22 McMullen, Medina, Menard, Midland, Nueces,
23 Pecos, Presidio, Reagan, Real, Reeves, San
24 Patricio, Shleicher, Sutton, Starr, Sterling,
25 Terrell, Tom Green, Upton, Uvalde, Val Verde,

1 Ward, Webb, Willacy, Wilson, Winkler, Zapata,
2 and Zavala in the State of Texas.

3 (13) SMALL BUSINESS.—The term “small busi-
4 ness” has the meaning given the term “small busi-
5 ness concern” in section 3(a) of the Small Business
6 Act (15 U.S.C. 632(a)).

7 **TITLE I—SOUTHWEST REGIONAL** 8 **BORDER AUTHORITY**

9 **SEC. 101. MEMBERSHIP AND VOTING.**

10 (a) ESTABLISHMENT.—

11 (1) IN GENERAL.—There is established the
12 Southwest Regional Border Authority.

13 (2) COMPOSITION.—The Authority shall be
14 composed of—

15 (A) a Federal member, to be appointed by
16 the President, by and with the advice and con-
17 sent of the Senate; and

18 (B) State members, who shall consist of
19 the Governor (or a designee of the Governor) of
20 each State in the region that elects to partici-
21 pate in the Authority.

22 (3) COCHAIRPERSONS.—The Authority shall be
23 headed by—

24 (A) the Federal member, who shall serve—

25 (i) as the Federal cochairperson; and

1 (ii) as a liaison between the Federal
2 Government and the Authority; and

3 (B) a State cochairperson, who shall—

4 (i) be a Governor of a State described
5 in paragraph (2)(B);

6 (ii) be elected by the State members
7 for a term of not more than 2 years; and

8 (iii) serve only 1 term during any 4
9 year period.

10 (b) ALTERNATE MEMBERS.—

11 (1) STATE ALTERNATES.—The State member
12 of a State described in paragraph (2)(B) may have
13 a single alternate, who shall be—

14 (A) a resident of that State; and

15 (B) appointed by the Governor of the
16 State, from among the members of the cabinet
17 or personal staff of the Governor.

18 (2) ALTERNATE FEDERAL COCHAIRPERSON.—

19 The President shall appoint an alternate Federal co-
20 chairperson.

21 (3) QUORUM.—Subject to subsection (d)(4), a
22 State alternate member shall not be counted toward
23 the establishment of a quorum of the members of
24 the Authority in any case in which a quorum of the
25 State members is required to be present.

1 (4) DELEGATION OF POWER.—No power or re-
2 responsibility of the Authority specified in paragraph
3 (2) or (3) of subsection (d), and no voting right of
4 any member of the Authority, shall be delegated to
5 any person who is not—

6 (A) a member of the Authority; or

7 (B) entitled to vote at meetings of the Au-
8 thority.

9 (c) MEETINGS.—

10 (1) INITIAL MEETING.—The initial meeting of
11 the Authority shall be conducted not later than the
12 date that is the earlier of—

13 (A) 180 days after the date of enactment
14 of this Act; or

15 (B) 60 days after the date on which the
16 Federal cochairperson is appointed.

17 (2) OTHER MEETINGS.—The Authority shall
18 hold meetings at such times as the Authority deter-
19 mines, but not less often than semiannually.

20 (3) LOCATION.—Meetings of the Authority shall
21 be conducted, on a rotating basis, at a site in the
22 region in each of the States of Arizona, California,
23 New Mexico, and Texas.

24 (d) VOTING.—

1 (1) IN GENERAL.—To be effective, a decision by
2 the Authority shall require the approval of the Fed-
3 eral cochairperson and not less than 60 percent of
4 the State members of the Authority (not including
5 any member representing a State that is delinquent
6 under section 102(d)(2)(D)).

7 (2) QUORUM.—

8 (A) IN GENERAL.—A majority of the State
9 members shall constitute a quorum.

10 (B) REQUIRED FOR POLICY DECISION.—A
11 quorum of State members shall be required to
12 be present for the Authority to make any policy
13 decision, including—

14 (i) a modification or revision of a pol-
15 icy decision of the Authority;

16 (ii) approval of a State or regional de-
17 velopment plan; and

18 (iii) any allocation of funds among the
19 States.

20 (3) PROJECT AND GRANT PROPOSALS.—The ap-
21 proval of project and grant proposals shall be—

22 (A) a responsibility of the Authority; and

23 (B) conducted in accordance with section
24 302.

1 (4) VOTING BY ALTERNATE MEMBERS.—An al-
2 ternate member shall vote in the case of the absence,
3 death, disability, removal, or resignation of the Fed-
4 eral or State member for which the alternate mem-
5 ber is an alternate.

6 **SEC. 102. DUTIES AND POWERS.**

7 (a) DUTIES.—The Authority shall—

8 (1) develop comprehensive and coordinated
9 plans and programs to establish priorities and ap-
10 prove grants for the economic development of the re-
11 gion, giving due consideration to other Federal,
12 State, and local planning and development activities
13 in the region;

14 (2) conduct and sponsor investigations, re-
15 search, and studies, including an inventory and anal-
16 ysis of the resources of the region, using, in part,
17 the materials compiled by the Interagency Task
18 Force on the Economic Development of the South-
19 west Border established by Executive Order No.
20 13122 (64 Fed. Reg. 29201);

21 (3) sponsor demonstration projects under sec-
22 tion 207;

23 (4)(A) enhance the capacity of, and provide
24 support for, local development districts in the region;
25 or

1 (B) if there is no local development district de-
2 scribed in clause (i) of section 3(11)(A) for a portion
3 of the region, foster the creation of a local develop-
4 ment district;

5 (5) review and study Federal, State, and local
6 public and private programs and, as appropriate,
7 recommend modifications or additions to increase
8 the effectiveness of the programs;

9 (6) formulate and recommend, as appropriate,
10 interstate and international compacts and other
11 forms of interstate and international cooperation;

12 (7) encourage private investment in industrial,
13 commercial, and recreational projects in the region;

14 (8) provide a forum for consideration of the
15 problems of the region and any proposed solutions to
16 those problems;

17 (9) establish and use, as appropriate, citizens,
18 special advisory counsels, and public conferences;
19 and

20 (10) provide a coordinating mechanism to avoid
21 duplication of efforts among the border programs of
22 the Federal agencies and the programs established
23 under the North American Free Trade Agreement
24 entered into by the United States, Mexico, and Can-
25 ada on December 17, 1992.

1 (b) POWERS.—In carrying out subsection (a), the Au-
2 thority may—

3 (1) hold such hearings, sit and act at such
4 times and places, take such testimony, receive such
5 evidence, and print or otherwise reproduce and dis-
6 tribute a description of the proceedings of, and re-
7 ports on actions by, the Authority as the Authority
8 considers appropriate;

9 (2) request from any Federal, State, or local
10 agency such information as may be available to or
11 procurable by the agency that may be of use to the
12 Authority in carrying out the duties of the Author-
13 ity;

14 (3) maintain an accurate and complete record
15 of all transactions and activities of the Authority, to
16 be available for audit and examination by the Comp-
17 troller General of the United States;

18 (4) adopt, amend, and repeal bylaws and rules
19 governing the conduct of business and the perform-
20 ance of duties of the Authority;

21 (5) request the head of any Federal agency to
22 detail to the Authority, for a specified period of
23 time, such personnel as the Authority requires to
24 carry out duties of the Authority, each such detail

1 to be without loss of seniority, pay, or other em-
2 ployee status;

3 (6) request the head of any State department
4 or agency or local government to detail to the Au-
5 thority, for a specified period of time, such personnel
6 as the Authority requires to carry out the duties of
7 the Authority, each such detail to be without loss of
8 seniority, pay, or other employee status;

9 (7) make recommendations to the President re-
10 garding—

11 (A) the expenditure of funds at the Fed-
12 eral, State, and local levels under this Act; and

13 (B) additional Federal, State, and local
14 legislation that may be necessary to further the
15 purposes of this Act;

16 (8) provide for coverage of Authority employees
17 in a suitable retirement and employee benefit system
18 by—

19 (A) making arrangements or entering into
20 contracts with any participating State govern-
21 ment; or

22 (B) otherwise providing retirement and
23 other employee benefit coverage;

1 (9) accept, use, and dispose of gifts or dona-
2 tions of services or real, personal, tangible, or intan-
3 gible property;

4 (10) enter into and perform such contracts,
5 leases, cooperative agreements, or other transactions
6 as are necessary to carry out the duties of the Au-
7 thority;

8 (11) establish and maintain—

9 (A) a headquarters for the Authority, to be
10 located at a site that is not more than 100 kilo-
11 meters from the international border between
12 the United States and Mexico; and

13 (B) at least 1 field office in each of the
14 States of Arizona, California, New Mexico, and
15 Texas, to be located at appropriate sites in the
16 region that are not more than 100 kilometers
17 from the international border between the
18 United States and Mexico; and

19 (12) provide for an appropriate level of rep-
20 resentation in Washington, D.C.

21 (c) FEDERAL AGENCY COOPERATION.—A Federal
22 agency shall—

23 (1) cooperate with the Authority; and

24 (2) provide, on request of the Federal cochair-
25 person, appropriate assistance in carrying out this

1 Act, in accordance with applicable Federal laws (in-
2 cluding regulations).

3 (d) ADMINISTRATIVE EXPENSES.—

4 (1) IN GENERAL.—

5 (A) ADMINISTRATIVE EXPENSES.—Subject
6 to paragraph (2), administrative expenses of the
7 Authority shall be paid—

8 (i) by the Federal Government, in an
9 amount equal to 60 percent of the admin-
10 istrative expenses; and

11 (ii) by the States in the region that
12 elect to participate in the Authority, in an
13 amount equal to 40 percent of the admin-
14 istrative expenses.

15 (B) EXPENSES OF FEDERAL CHAIR-
16 PERSON.—All expenses of the Federal cochair-
17 person, including expenses of the alternate and
18 staff of the Federal cochairperson, shall be paid
19 by the Federal Government.

20 (2) STATE SHARE.—

21 (A) IN GENERAL.—Subject to subpara-
22 graph (C), the share of administrative expenses
23 of the Authority to be paid by each State shall
24 be determined by a unanimous vote of the State
25 members of the Authority.

1 (B) NO FEDERAL PARTICIPATION.—The
2 Federal cochairperson shall not participate or
3 vote in any decision under subparagraph (A).

4 (C) LIMITATION.—A State shall not pay
5 less than 10 nor more than 40 percent of the
6 share of administrative expenses of the Author-
7 ity determined under paragraph (1)(A)(ii).

8 (D) DELINQUENT STATES.—During any
9 period in which a State is more than 1 year de-
10 linquent in payment of the State’s share of ad-
11 ministrative expenses of the Authority under
12 this subsection (as determined by the Sec-
13 retary)—

14 (i) no assistance under this Act shall
15 be provided to the State (including assist-
16 ance to a political subdivision or a resident
17 of the State) for any project not approved
18 as of the date of the commencement of the
19 delinquency; and

20 (ii) no member of the Authority from
21 the State shall participate or vote in any
22 action by the Authority.

23 (E) EFFECT ON ASSISTANCE.—A State’s
24 share of administrative expenses of the Author-
25 ity under this subsection shall not be taken into

1 consideration in determining the amount of as-
2 sistance provided to the State under title II.

3 **SEC. 103. AUTHORITY PERSONNEL MATTERS.**

4 (a) COMPENSATION OF MEMBERS.—

5 (1) FEDERAL COCHAIRPERSON.—The Federal
6 cochairperson shall be compensated by the Federal
7 Government at the annual rate of basic pay pre-
8 scribed for level III of the Executive Schedule in
9 subchapter II of chapter 53 of title 5, United States
10 Code.

11 (2) ALTERNATE FEDERAL COCHAIRPERSON.—
12 The alternate Federal cochairperson—

13 (A) shall be compensated by the Federal
14 Government at the annual rate of basic pay
15 prescribed for level V of the Executive Schedule
16 described in paragraph (1); and

17 (B) when not actively serving as an alter-
18 nate for the Federal cochairperson, shall per-
19 form such functions and duties as are delegated
20 by the Federal cochairperson.

21 (3) STATE MEMBERS AND ALTERNATES.—

22 (A) IN GENERAL.—A State shall com-
23 pensate each member and alternate member
24 representing the State on the Authority at the
25 rate established by State law.

1 (B) NO ADDITIONAL COMPENSATION.—No
2 State member or alternate member shall receive
3 any salary, or any contribution to or sup-
4 plementation of salary, from any source other
5 than the State for services provided by the
6 member or alternate member to the Authority.

7 (b) DETAILED EMPLOYEES.—

8 (1) IN GENERAL.—No person detailed to serve
9 the Authority under section 102(b)(6) shall receive
10 any salary, or any contribution to or supplemen-
11 tation of salary, for services provided to the Author-
12 ity from—

13 (A) any source other than the State, local,
14 or intergovernmental department or agency
15 from which the person was detailed; or

16 (B) the Authority.

17 (2) VIOLATION.—Any person that violates this
18 subsection shall be fined not more than \$5,000, im-
19 prisoned not more than 1 year, or both.

20 (c) ADDITIONAL PERSONNEL.—

21 (1) COMPENSATION.—

22 (A) IN GENERAL.—The Authority may ap-
23 point and fix the compensation of an executive
24 director and such other personnel as are nec-

1 essary to enable the Authority to carry out the
2 duties of the Authority.

3 (B) EXCEPTION.—Compensation under
4 subparagraph (A) shall not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title
5 5, United States Code, including any applicable
6 locality-based comparability payment that may
7 be authorized under section 5304(h)(2)(C) of
8 that title.

9 (2) EXECUTIVE DIRECTOR.—The executive director shall be responsible for—

10 (A) carrying out the administrative duties
11 of the Authority;

12 (B) directing the Authority staff; and

13 (C) carrying out such other duties as the
14 Authority may assign.

15 (3) NO FEDERAL EMPLOYEE STATUS.—No
16 member, alternate, officer, or employee of the Authority (other than the Federal cochairperson, the
17 alternate Federal cochairperson, staff of the Federal
18 cochairperson, and any Federal employee detailed to
19 the Authority under subsection (b)) shall be considered to be a Federal employee for any purpose.

20 (d) CONFLICTS OF INTEREST.—

1 (1) IN GENERAL.—Except as provided under
2 paragraph (2), no State member, State alternate, of-
3 ficer, employee, or detailee of the Authority shall
4 participate personally and substantially as a mem-
5 ber, alternate, officer, employee, or detailee of the
6 Authority, through decision, approval, disapproval,
7 recommendation, the rendering of advice, investiga-
8 tion, or otherwise, in any proceeding, application, re-
9 quest for a ruling or other determination, contract,
10 claim, controversy, or other matter in which the
11 member, alternate, officer, employee, or detailee has
12 a financial interest.

13 (2) DISCLOSURE.—Paragraph (1) shall not
14 apply if the State member, State alternate, officer,
15 employee, or detailee—

16 (A) immediately advises the Authority of
17 the nature and circumstances of the proceeding,
18 application, request for a ruling or other deter-
19 mination, contract, claim, controversy, or other
20 particular matter presenting a potential conflict
21 of interest;

22 (B) makes full disclosure of the financial
23 interest; and

24 (C) before the proceeding concerning the
25 matter presenting the conflict of interest, re-

1 ceives a written determination by the Authority
2 that the interest is not so substantial as to be
3 likely to affect the integrity of the services that
4 the Authority may expect from the State mem-
5 ber, State alternate, officer, employee, or
6 detailee.

7 (3) VIOLATION.—Any person that violates this
8 subsection shall be fined not more than \$10,000, im-
9 prisoned not more than 2 years, or both.

10 (e) VALIDITY OF CONTRACTS, LOANS, AND
11 GRANTS.—The Authority may declare void any contract,
12 loan, or grant of or by the Authority in relation to which
13 the Authority determines that there has been a violation
14 of subsection (b), subsection (d), or any of sections 202
15 through 209 of title 18, United States Code.

16 (f) APPLICABLE LABOR STANDARDS.—

17 (1) IN GENERAL.—All laborers and mechanics
18 employed by contractors or subcontractors in the
19 construction, alteration, or repair, including painting
20 and decorating, of projects, buildings, and works
21 funded by the United States under this Act, shall be
22 paid wages at not less than the prevailing wages on
23 similar construction in the locality as determined by
24 the Secretary of Labor in accordance with the Act
25 of March 3, 1931 (40 U.S.C. 276a et seq.).

1 (2) **AUTHORITY.**—With respect to the deter-
2 mination of wages under paragraph (1), the Sec-
3 retary of Labor shall have the authority and func-
4 tions set forth in Reorganization Plan No. 14 of
5 1950 (64 Stat. 1267) and section 2 of the Act of
6 June 13, 1934 (40 U.S.C. 276c).

7 **TITLE II—GRANTS AND** 8 **DEVELOPMENT PLANNING**

9 **SEC. 201. INFRASTRUCTURE DEVELOPMENT AND IMPROVE-** 10 **MENT.**

11 The Authority may approve grants to States, local
12 governments, Indian tribes, and public and nonprofit orga-
13 nizations in the region for projects, approved in accord-
14 ance with section 302, to develop and improve the trans-
15 portation, water and wastewater, public health, and tele-
16 communications infrastructure of the region.

17 **SEC. 202. TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.**

18 The Authority may approve grants to small busi-
19 nesses, universities, national laboratories, and nonprofit
20 organizations in the region to research, develop, dem-
21 onstrate, and deploy technology that addresses—

- 22 (1) water quality;
- 23 (2) water quantity;
- 24 (3) pollution;
- 25 (4) transportation;

- 1 (5) energy consumption;
- 2 (6) public health;
- 3 (7) border and port security; and
- 4 (8) any other related matter that stimulates job
5 creation or enhances economic development in the
6 region, as determined by the Authority.

7 **SEC. 203. COMMUNITY DEVELOPMENT AND ENTREPRE-**
8 **NEURSHIP.**

9 The Authority may approve grants to States, local
10 governments, Indian tribes, small businesses, and public
11 or nonprofit entities for projects, approved in accordance
12 with section 302—

- 13 (1) to create dynamic local economies by—
 - 14 (A) recruiting businesses to the region;
 - 15 and
 - 16 (B) increasing and expanding international
17 trade to other countries;
- 18 (2) to foster entrepreneurship by—
 - 19 (A) supporting the advancement of, and
20 providing entrepreneurial training and edu-
21 cation for, youths, students, and
22 businesspersons;
 - 23 (B) improving access to debt and equity
24 capital by facilitating the establishment of de-

1 development venture capital funds and other ap-
2 propriate means;

3 (C) providing aid to communities in identi-
4 fying, developing, and implementing develop-
5 ment strategies for various sectors of the econ-
6 omy; and

7 (D)(i) developing a working network of
8 business incubators; and

9 (ii) supporting entities that provide busi-
10 ness incubator services; and

11 (3) to promote civic responsibility and leader-
12 ship through activities that include—

13 (A) the identification and training of
14 emerging leaders;

15 (B) the encouragement of citizen participa-
16 tion; and

17 (C) the provision of assistance for strategic
18 planning and organization development.

19 **SEC. 204. EDUCATION AND WORKFORCE DEVELOPMENT.**

20 The Authority, in coordination with State and local
21 workforce development boards, may approve grants to
22 States, local governments, Indian tribes, small businesses,
23 and public or nonprofit entities for projects, approved in
24 accordance with section 302—

1 (1) to assist the region in obtaining the job
2 training, employment-related education, and busi-
3 ness development (with an emphasis on entrepre-
4 neurship) that are needed to build and maintain
5 strong local economies; and

6 (2) to supplement in-plant training programs
7 offered by State and local governments to attract
8 new businesses to the region.

9 **SEC. 205. FUNDING.**

10 (a) IN GENERAL.—Funds for grants under sections
11 201 through 204 may be provided—

12 (1) entirely from appropriations to carry out
13 this Act;

14 (2) in combination with funds available under
15 another Federal grant program or other Federal
16 program; or

17 (3) in combination with funds from any other
18 source, including—

19 (A) State and local governments, nonprofit
20 organizations, and the private sector in the
21 United States;

22 (B) the federal and local government of,
23 and private sector in, Mexico; and

24 (C) the North American Development
25 Bank.

1 (b) PRIORITY OF FUNDING.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the Authority shall award funding to each State in
4 the region for activities in accordance with an order
5 of priority to be determined by the State.

6 (2) FUNDING FOR BORDER COUNTIES.—For
7 each fiscal year, the Authority shall allocate at least
8 60 percent of the amounts made available under sec-
9 tion 306 for programs and projects designed to serve
10 the needs of—

11 (A) distressed counties located along the
12 international border between the United States
13 and Mexico; and

14 (B) isolated areas of distress located with-
15 in counties along the international border be-
16 tween the United States and Mexico.

17 (c) BINATIONAL PROJECTS.—

18 (1) PROHIBITION ON PROVISION OF FUNDING
19 TO NON-UNITED STATES ENTITIES.—The Authority
20 shall not award funding to any entity that is not in-
21 corporated in the United States.

22 (2) FUNDING OF BINATIONAL PROJECTS.—The
23 Authority may award funding to a project in which
24 an entity that is incorporated outside the United
25 States participates if, for any fiscal year, the entity

1 matches with an equal amount, in cash or in-kind,
2 the assistance received under this Act for the fiscal
3 year.

4 **SEC. 206. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.**

5 (a) FINDING.—Congress finds that certain States
6 and local communities of the region, including local devel-
7 opment districts, may be unable to take maximum advan-
8 tage of Federal grant programs for which the States and
9 communities are eligible because—

10 (1) they lack the economic resources to provide
11 the required matching share; or

12 (2) there are insufficient funds available under
13 the Federal law authorizing the Federal grant pro-
14 gram to meet pressing needs of the region.

15 (b) FEDERAL GRANT PROGRAM FUNDING.—Not-
16 withstanding any provision of law limiting the Federal
17 share, the areas eligible for assistance, or the authoriza-
18 tions of appropriations, under any Federal grant program,
19 and in accordance with subsection (c), the Authority, with
20 the approval of the Federal cochairperson and with respect
21 to a project to be carried out in the region, may—

22 (1) increase the Federal share of the costs of a
23 project under any Federal grant program to not
24 more than 90 percent (except as provided in section
25 209(b)); and

1 (2) use amounts made available to carry out
2 this Act to pay all or a portion of the increased Fed-
3 eral share.

4 (c) CERTIFICATIONS.—

5 (1) IN GENERAL.—In the case of any project
6 for which all or any portion of the basic Federal
7 share of the costs of the project is proposed to be
8 paid under this section, no Federal contribution
9 shall be made until the Federal official admin-
10 istering the Federal law that authorizes the Federal
11 grant program certifies that the project—

12 (A) meets (except as provided in subsection
13 (b)) the applicable requirements of the applica-
14 ble Federal grant program; and

15 (B) could be approved for Federal con-
16 tribution under the Federal grant program if
17 funds were available under the law for the
18 project.

19 (2) CERTIFICATION BY AUTHORITY.—

20 (A) IN GENERAL.—The certifications and
21 determinations required to be made by the Au-
22 thority for approval of projects under this Act
23 in accordance with section 302—

24 (i) shall be controlling; and

1 (ii) shall be accepted by the Federal
2 agencies.

3 (B) ACCEPTANCE BY FEDERAL COCHAIR-
4 PERSON.—In the case of any project described
5 in paragraph (1), any finding, report, certifi-
6 cation, or documentation required to be sub-
7 mitted with respect to the project to the head
8 of the department, agency, or instrumentality of
9 the Federal Government responsible for the ad-
10 ministration of the Federal grant program
11 under which the project is carried out shall be
12 accepted by the Federal cochairperson.

13 **SEC. 207. DEMONSTRATION PROJECTS.**

14 (a) IN GENERAL.—For each fiscal year, the Author-
15 ity may approve not more than 10 demonstration projects
16 to carry out activities described in sections 201 through
17 204, of which not more than 3 shall be carried out in any
18 1 State.

19 (b) REQUIREMENTS.—A demonstration project car-
20 ried out under this section shall—

21 (1) be carried out on a multistate or multi-
22 county basis; and

23 (2) be developed in accordance with the regional
24 development plan prepared under section 210(d).

1 **SEC. 208. LOCAL DEVELOPMENT DISTRICTS; CERTIFI-**
2 **CATION AND ADMINISTRATIVE EXPENSES.**

3 (a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

4 (1) IN GENERAL.—The Authority shall make
5 grants to local development districts to pay the ad-
6 ministrative expenses of the local development dis-
7 tricts.

8 (2) CONDITIONS FOR GRANTS.—

9 (A) MAXIMUM AMOUNT.—The amount of
10 any grant awarded under paragraph (1) shall
11 not exceed 80 percent of the administrative ex-
12 penses of the local development district receiv-
13 ing the grant.

14 (B) MAXIMUM PERIOD.—No grant de-
15 scribed in paragraph (1) shall be awarded for a
16 period greater than 3 years to a State agency
17 certified as a local development district.

18 (C) LOCAL SHARE.—The contributions of
19 a local development district for administrative
20 expenses may be in cash or in kind, fairly evalu-
21 ated, including space, equipment, and services.

22 (b) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—

23 A local development district shall—

24 (1) operate as a lead organization serving
25 multicounty areas in the region at the local level;

1 (2) assist the Authority in carrying out out-
2 reach activities for local governments, community
3 development groups, the business community, and
4 the public;

5 (3) serve as a liaison between State and local
6 governments, nonprofit organizations (including
7 community-based groups and educational institu-
8 tions), the business community, and citizens; and

9 (4) assist the individuals and entities described
10 in paragraph (3) in identifying, assessing, and facili-
11 tating projects and programs to promote the eco-
12 nomic development of the region.

13 **SEC. 209. DISTRESSED COUNTIES AND AREAS AND ECO-**
14 **NOMICALLY STRONG COUNTIES.**

15 (a) DESIGNATIONS.—At the initial meeting of the
16 Authority and annually thereafter, the Authority, in ac-
17 cordance with such criteria as the Authority may establish,
18 shall designate—

- 19 (1) distressed counties;
20 (2) economically strong counties;
21 (3) attainment counties;
22 (4) competitive counties; and
23 (5) isolated areas of distress.

24 (b) DISTRESSED COUNTIES.—

1 (1) IN GENERAL.—For each fiscal year, the Au-
2 thority shall allocate at least 50 percent of the
3 amounts made available under section 306 for pro-
4 grams and projects designed to serve the needs of
5 distressed counties and isolated areas of distress in
6 the region.

7 (2) FUNDING LIMITATIONS.—The funding limi-
8 tations under section 206(b) shall not apply to a
9 project to provide transportation or basic public
10 services to residents of 1 or more distressed counties
11 or isolated areas of distress in the region.

12 (c) ECONOMICALLY STRONG COUNTIES.—

13 (1) ATTAINMENT COUNTIES.—Except as pro-
14 vided in paragraph (3), the Authority shall not pro-
15 vide funds for a project located in a county des-
16 ignated as an attainment county under subsection
17 (a)(3).

18 (2) COMPETITIVE COUNTIES.—Except as pro-
19 vided in paragraph (3), the Authority shall not pro-
20 vide more than 30 percent of the total cost of any
21 project carried out in a county designated as a com-
22 petitive county under subsection (a)(2)(B).

23 (3) EXCEPTIONS.—

24 (A) IN GENERAL.—The funding prohibi-
25 tion under paragraph (1) and the funding limi-

1 tation under paragraph (2) shall not apply to
2 grants to fund the administrative expenses of
3 local development districts under section
4 208(a).

5 (B) MULTICOUNTY PROJECTS.—If the Au-
6 thority determines that a project could bring
7 significant benefits to areas of the region out-
8 side an attainment or competitive county, the
9 Authority may waive the application of the
10 funding prohibition under paragraph (1) and
11 the funding limitation under paragraph (2)
12 to—

13 (i) a multicounty project that includes
14 participation by an attainment or competi-
15 tive county; or

16 (ii) any other type of project.

17 (4) ISOLATED AREAS OF DISTRESS.—For a des-
18 ignation of an isolated area of distress for assistance
19 to be effective, the designation shall be supported—

20 (A) by the most recent Federal data avail-
21 able; or

22 (B) if no recent Federal data are available,
23 by the most recent data available through the
24 government of the State in which the isolated
25 area of distress is located.

1 **SEC. 210. DEVELOPMENT PLANNING PROCESS.**

2 (a) STATE DEVELOPMENT PLAN.—In accordance
3 with policies established by the Authority, each State
4 member shall submit an annual development plan for the
5 area of the region represented by the State member to
6 assist the Authority in determining funding priorities
7 under section 205(b).

8 (b) CONSULTATION WITH INTERESTED PARTIES.—
9 In carrying out the development planning process (includ-
10 ing the selection of programs and projects for assistance),
11 a State shall—

12 (1) consult with—

13 (A) local development districts; and

14 (B) local units of government;

15 (2) take into consideration the goals, objectives,
16 priorities, and recommendations of the entities de-
17 scribed in paragraph (1); and

18 (3) solicit input on and take into consideration
19 the potential impact of the State development plan
20 on the binational region.

21 (c) PUBLIC PARTICIPATION.—

22 (1) IN GENERAL.—The Authority and applica-
23 ble State and local development districts shall en-
24 courage and assist, to the maximum extent prac-
25 ticable, public participation in the development, revi-

1 sion, and implementation of all plans and programs
2 under this Act.

3 (2) REGULATIONS.—The Authority shall de-
4 velop guidelines for providing public participation
5 described in paragraph (1), including public hear-
6 ings.

7 (d) REGIONAL DEVELOPMENT PLAN.—The Author-
8 ity shall prepare an annual regional development plan
9 that—

10 (1) is based on State development plans sub-
11 mitted under subsection (a);

12 (2) takes into account—

13 (A) the input of the private sector, aca-
14 demia, and nongovernmental organizations; and

15 (B) the potential impact of the regional de-
16 velopment plan on the binational region;

17 (3) establishes 5-year goals for the development
18 of the region;

19 (4) identifies and recommends to the States—

20 (A) potential multistate or multicounty
21 projects that further the goals for the region;

22 and

23 (B) potential development projects for the
24 binational region; and

1 (5) identifies and recommends to the Authority
2 for funding demonstration projects under section
3 207.

4 **TITLE III—ADMINISTRATION**

5 **SEC. 301. PROGRAM DEVELOPMENT CRITERIA.**

6 (a) IN GENERAL.—In considering programs and
7 projects to be provided assistance under this Act, and in
8 establishing a priority ranking of the requests for assist-
9 ance provided to the Authority, the Authority shall follow
10 procedures that ensure, to the maximum extent prac-
11 ticable, consideration of—

12 (1) the relationship of the project or class of
13 projects to overall regional development;

14 (2) the per capita income and poverty and un-
15 employment rates in an area;

16 (3) the financial resources available to the ap-
17 plicants for assistance seeking to carry out the
18 project, with emphasis on ensuring that projects are
19 adequately financed to maximize the probability of
20 successful economic development;

21 (4) the socioeconomic importance of the project
22 or class of projects in relation to other projects or
23 classes of projects that may be in competition for
24 the same funds;

1 (5) the prospects that the project for which as-
2 sistance is sought will improve, on a continuing rath-
3 er than a temporary basis, the opportunities for em-
4 ployment, the average level of income, or the eco-
5 nomic development of the area to be served by the
6 project; and

7 (6) the extent to which the project design pro-
8 vides for detailed outcome measurements by which
9 grant expenditures and the results of the expendi-
10 tures may be evaluated.

11 (b) NO RELOCATION ASSISTANCE.—No financial as-
12 sistance authorized by this Act shall be used to assist a
13 person or entity in relocating from 1 area to another, ex-
14 cept that financial assistance may be used as otherwise
15 authorized by this Act to attract businesses from outside
16 the region to the region.

17 (c) MAINTENANCE OF EFFORT.—Funds may be pro-
18 vided for a program or project in a State under this Act
19 only if the Authority determines that the level of Federal
20 or State financial assistance provided under a law other
21 than this Act, for the same type of program or project
22 in the same area of the State within the region, will not
23 be reduced as a result of funds made available by this Act.

1 **SEC. 302. APPROVAL OF DEVELOPMENT PLANS AND**
2 **PROJECTS.**

3 (a) IN GENERAL.—A State or regional development
4 plan or any multistate subregional plan that is proposed
5 for development under this Act shall be reviewed by the
6 Authority.

7 (b) EVALUATION BY STATE MEMBER.—An applica-
8 tion for a grant or any other assistance for a project under
9 this Act shall be made through and evaluated for approval
10 by the State member of the Authority representing the
11 applicant.

12 (c) CERTIFICATION.—An application for a grant or
13 other assistance for a project shall be approved only on
14 certification by the State member that the application for
15 the project—

16 (1) describes ways in which the project complies
17 with any applicable State development plan;

18 (2) meets applicable criteria under section 301;

19 (3) provides adequate assurance that the pro-
20 posed project will be properly administered, oper-
21 ated, and maintained; and

22 (4) otherwise meets the requirements of this
23 Act.

24 (d) VOTES FOR DECISIONS.—On certification by a
25 State member of the Authority of an application for a
26 grant or other assistance for a specific project under this

1 section, an affirmative vote of the Authority under section
2 101(d) shall be required for approval of the application.

3 **SEC. 303. CONSENT OF STATES.**

4 Nothing in this Act requires any State to engage in
5 or accept any program under this Act without the consent
6 of the State.

7 **SEC. 304. RECORDS.**

8 (a) RECORDS OF THE AUTHORITY.—

9 (1) IN GENERAL.—The Authority shall main-
10 tain accurate and complete records of all trans-
11 actions and activities of the Authority.

12 (2) AVAILABILITY.—All records of the Author-
13 ity shall be available for audit and examination by
14 the Comptroller General of the United States (in-
15 cluding authorized representatives of the Comp-
16 troller General).

17 (b) RECORDS OF RECIPIENTS OF FEDERAL ASSIST-
18 ANCE.—

19 (1) IN GENERAL.—A recipient of Federal funds
20 under this Act shall, as required by the Authority,
21 maintain accurate and complete records of trans-
22 actions and activities financed with Federal funds
23 and report to the Authority on the transactions and
24 activities.

1 (2) AVAILABILITY.—All records required under
2 paragraph (1) shall be available for audit by the
3 Comptroller General of the United States and the
4 Authority (including authorized representatives of
5 the Comptroller General and the Authority).

6 (c) ANNUAL AUDIT.—The Comptroller General of the
7 United States shall audit the activities, transactions, and
8 records of the Authority on an annual basis.

9 **SEC. 305. ANNUAL REPORT.**

10 (a) IN GENERAL.—Not later than 180 days after the
11 end of each fiscal year, the Authority shall submit to the
12 President and to Congress a report describing the activi-
13 ties carried out under this Act.

14 (b) CONTENTS.—

15 (1) IN GENERAL.—The report shall include—

16 (A) an evaluation of the progress of the
17 Authority—

18 (i) in meeting the goals set forth in
19 the regional development plan and the
20 State development plans; and

21 (ii) in working with other Federal
22 agencies and the border programs adminis-
23 tered by the Federal agencies;

24 (B) examples of notable projects in each
25 State;

1 (C) a description of all demonstration
2 projects funded under section 306(b) during the
3 fiscal year preceding submission of the report;
4 and

5 (D) any policy recommendations approved
6 by the Authority.

7 (2) INITIAL REPORT.—In addition to the con-
8 tents specified in paragraph (1), the initial report
9 submitted under this section shall include—

10 (A) a determination as to whether the cre-
11 ation of a loan fund to be administered by the
12 Authority is necessary; and

13 (B) if the Authority determines that a loan
14 fund is necessary—

15 (i) a request for the authority to es-
16 tablish a loan fund; and

17 (ii) a description of the eligibility cri-
18 teria and performance requirements for the
19 loans.

20 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—There are authorized to be appro-
22 priated to the Authority to carry out this Act, to remain
23 available until expended—

24 (1) \$50,000,000 for fiscal year 2004;

25 (2) \$75,000,000 for fiscal year 2005;

1 (3) \$90,000,000 for fiscal year 2006;

2 (4) \$92,000,000 for fiscal year 2007; and

3 (5) \$94,000,000 for fiscal year 2008.

4 (b) DEMONSTRATION PROJECTS.—Of the funds
5 made available under subsection (a), \$5,000,000 for each
6 fiscal year shall be available to the Authority to carry out
7 section 207.

8 **SEC. 307. TERMINATION OF AUTHORITY.**

9 The authority provided by this Act terminates effec-
10 tive October 1, 2008.

○